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IN THE MATTER OF THE APPLICATION OF THE
ARIZONA ELECTRIC POWER COOPERATIVE,
INC. FOR A HEARING TO DETERMINE THE
FAIR VALUE OF ITS PROPERTY FOR
RATEMAKING PURPOSES, TO FIX A JUST AND
REASONABLE RETURN THEREON AND TO
APPROVE RATES DESIGNED TO DEVELOP
SUCH RETURN

Docket No. E-01773A-12-0305

**REQUEST FOR BRIEFING
ORDER IN LIEU OF HEARING
RE ECAR**

This filing provides a status report regarding the communications between the Applicant, Arizona Electric Power Cooperative, Inc. ("AEPCO" or the "Cooperative"), and the Commission's Utilities Division Staff ("Staff") regarding AEPCO's proposed Environmental Compliance Adjustment Rider ("ECAR"). Since the procedural conference held in February, the parties have worked together to prepare a Stipulated Statement of Facts (attached as Exhibit A) regarding the sole issue remaining in dispute – whether certain chemical costs should be eligible for recovery through the ECAR mechanism. The stipulation resolves all potential material factual disputes and, therefore, provides the necessary predicate upon which the parties can brief this policy issue without the need for an evidentiary hearing. Accordingly, AEPCO requests that the Administrative Law Judge approve the Cooperative's proposal that the parties submit briefs on May 8, 2015 and, thereby, avoid the time, cost and notice requirement associated with an evidentiary hearing.

Arizona Corporation Commission

DOCKETED

APR 21 2015

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RC

1 **BACKGROUND**

2 Pursuant to Decision No. 74173, AEPCO filed its Application for approval of the ECAR
3 Tariff and Plan of Administration on April 30, 2014 and, subsequently, provided notice of the
4 same to the customers of its member distribution cooperatives in a form acceptable to the
5 member cooperatives and Staff. On October 17, 2014, Staff filed a Report in which it agreed
6 that the Commission should approve the ECAR but argued that AEPCO's request to recover
7 certain chemical costs through the mechanism should be denied. On November 13, 2014,
8 AEPCO filed its Response to Staff's Report.

9 In the Recommended Order filed on January 14, 2015, the Administrative Law Judge
10 questioned whether a hearing would be necessary to establish certain facts – specifically (1) the
11 necessity of the chemical costs at issue and (2) the anticipated price volatility of those chemicals.
12 In response to these concerns, AEPCO requested a procedural conference to discuss scheduling a
13 hearing. The procedural conference was held on February 20, 2015.

14 Following that conference, AEPCO and Staff discussed in greater detail the potential
15 factual disputes identified in the Recommended Order. The parties determined that they could
16 agree on both the necessity and potential volatility of the chemical costs, which agreement is
17 memorialized in the Stipulated Statement of Facts attached as Exhibit A.¹

18 **REQUEST FOR BRIEFING ORDER IN LIEU OF HEARING**

19 In light of the Stipulated Statement of Facts, AEPCO believes that a hearing is no longer
20 necessary. Instead, the Cooperative proposes that the parties brief the policy issue of whether the
21

22 ¹ At the February procedural conference, the Administrative Law Judge requested that AEPCO
23 prepare an estimate of the impact that the two most immediate environmental compliance
24 obligations facing the Cooperative may have on retail customer rates. The requested rate impact
information is included in the Stipulated Statement of Facts.

1 chemical costs should be eligible for recovery through the ECAR based on the undisputed facts
2 set forth in Exhibit A. Since the parties discussed the chemical cost issue in their 2014 filings,
3 only limited additional briefing is required. Therefore, AEPCO proposes that the parties submit
4 short briefs updating their positions in light of the Stipulated Statement of Facts, which briefs
5 would be due on May 8, 2015. It is anticipated that this deadline will provide sufficient time for
6 the Administrative Law Judge to review the parties' positions, schedule any necessary argument,
7 and prepare a Recommended Order in time for the Commission's Open Meeting in June 2015.

8 Given this procedure, it is AEPCO's position that there is no need to provide additional
9 notice regarding the ECAR to the customers of its member distribution cooperatives. First, if
10 there is no hearing, then there is no need for a hearing notice. Further, as discussed at the
11 February procedural conference, forcing AEPCO's member distribution cooperatives to publish
12 an ECAR notice in the distribution cooperative newsletters or via bill inserts may unnecessarily
13 confuse the retail customers as to which entity is proposing the adjustor mechanism. Also, a
14 notice at this stage could create the impression that approval of chemical cost eligibility is an
15 approval of chemical cost recovery. This would be misleading to the retail customers because,
16 as detailed in the Plan of Administration, AEPCO cannot actually recover any costs (including
17 chemical costs) through the ECAR until those costs are included in the Cooperative's
18 Environmental Compliance Strategy ("ECS") and approved for recovery by AEPCO's Board, its
19 distribution cooperative members and the Commission. Accordingly, it is AEPCO's position
20 that, if any additional notice is required, the appropriate time for publication would be when the
21 Cooperative files its initial ECS for Commission approval.

22 For the foregoing reasons, AEPCO requests that the Administrative Law Judge enter an
23 order approving the proposed briefing procedure outlined above. AEPCO has confirmed that
24

1 neither Staff nor the intervenors in this docket object to AEPCO's proposal that the parties file a
2 single round of briefs in time for the Commission's consideration at the June 2015 Open
3 Meeting.

4 RESPECTFULLY SUBMITTED this 22nd day of April, 2015.

5 GALLAGHER & KENNEDY, P.A.

6
7 By 

Jennifer A. Cranston
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Attorneys for Arizona Electric Cooperative, Inc.

10 **Original and 13 copies** filed this
11 22nd day of April, 2015, with:

12 Docket Control
13 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

14 **Copies** of the foregoing delivered
15 this 22nd day of April, 2015, to:

16 Commissioner Susan Bitter Smith, Chairman
17 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

18 Commissioner Bob Stump
19 Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

20 Commissioner Bob Burns
21 Arizona Corporation Commission
1200 West Washington Street
22 Phoenix, Arizona 85007

1 Commissioner Doug Little
Arizona Corporation Commission
2 1200 West Washington Street
Phoenix, Arizona 85007
3
4 Commissioner Tom Forese
Arizona Corporation Commission
5 1200 West Washington Street
Phoenix, Arizona 85007
6
7 Teena Jibilian
Administrative Law Judge
8 Arizona Corporation Commission
Hearing Division
9 1200 West Washington Street
Phoenix, Arizona 85007
10
11 Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
12 1200 West Washington Street
Phoenix, Arizona 85007
13
14 Bridget Humphrey
Legal Division
Arizona Corporation Commission
15 1200 West Washington Street
Phoenix, Arizona 85007
16
17 Steve Olea, Director
Utilities Division
Arizona Corporation Commission
18 1200 West Washington Street
Phoenix, Arizona 85007
19
20 Terri Ford
Utilities Division
Arizona Corporation Commission
21 1200 West Washington Street
Phoenix, Arizona 85007
22
23
24

1 Barbara Keene
Utilities Division
2 Arizona Corporation Commission
1200 West Washington Street
3 Phoenix, Arizona 85007

4 Candrea Allen
Utilities Division
5 Arizona Corporation Commission
1200 West Washington Street
6 Phoenix, Arizona 85007

7 **Copies** of the foregoing mailed/e-mailed
this 22nd day of April, 2015, to:
8
9 Michael W. Patten
Snell & Wilmer
One Arizona Center
10 400 East Van Buren, Suite 1900
Phoenix, Arizona 85004-2202
11 Attorneys for Trico Electric Cooperative, Inc.

12 Russell E. Jones
Waterfall, Economidis, Caldwell,
13 Hanshaw & Villamana P.C.
5210 East Williams Circle, Suite 800
14 Tucson, Arizona 85711
Attorneys for Trico Electric Cooperative, Inc.
15
16 Vincent Nitido
Karen Cathers
Trico Electric Cooperative, Inc.
17 8600 West Tangerine Road
P.O. Box 930
18 Marana, Arizona 85653

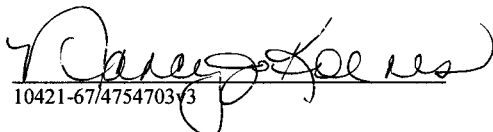
19 Jeffrey W. Crockett
Brownstein Hyatt Farber Schreck LLP
20 One East Washington Street, Suite 2400
Phoenix, Arizona 85004
21 Attorneys for Sulphur Springs Valley
Electric Cooperative, Inc.
22
23
24

1 Kirby Chapman
2 Surphur Springs Valley Electric
3 Cooperative, Inc.
4 311 East Wilcox Drive
5 Sierra Vista, Arizona 85635

4 Michael A. Curtis
5 William P. Sullivan
6 Curtis, Goodwin, Sullivan,
7 Udall & Schwab, P.L.C.
8 501 East Thomas Road
9 Phoenix, Arizona 85012-3205
10 Attorneys for Mohave Electric Cooperative, Inc.

8 Tyler Carlson
9 Mohave Electric Cooperative, Inc.
10 P.O. Box 1045
11 Bullhead City, Arizona 86430

10 Peggy Gillman
11 Mohave Electric Cooperative, Inc.
12 P.O. Box 1045
13 Bullhead City, Arizona 86430

13 
14 10421-67/4754703/3

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17

18

19

20

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EXHIBIT A

Docket No. E-01773A-12-0305
Arizona Electric Power Cooperative, Inc.
Environmental Compliance Adjustment Rider
Stipulated Statement of Facts

1. On April 30, 2014, Arizona Electric Power Cooperative, Inc. ("AEPCO" or the "Cooperative") filed its application for approval of an Environmental Compliance Adjustment Rider ("ECAR").
2. The purpose of the ECAR is to establish a monthly surcharge to provide AEPCO with a revenue mechanism to meet future environmental compliance obligations mandated by federal, state and/or local laws or regulations. Examples of such obligations currently faced by AEPCO include:
 - a. modifications to AEPCO's generating facilities at its Apache Station and the need to use urea in the Selective Non-Catalytic Reduction ("SNCR") process, which have been approved by the Environmental Protection Agency ("EPA") as a means for AEPCO to meet the EPA's regional haze requirements as of December 2017; and
 - b. the Cooperative's need to purchase and use activated carbon in order to comply with the EPA's Mercury and Air Toxics Standards ("MATS") as of April 2016.
3. As proposed, the ECAR rate will initially be set at zero. Thereafter, in response to a particular environmental regulation, AEPCO will analyze its financial status, including its current rate levels and any expenses that qualify for recovery/refund through its Purchased Power and Fuel Adjustment Clause ("PPFAC"), to determine whether the Cooperative requires additional revenue to comply with the given regulation or whether its margins are sufficient. If AEPCO determines that its margins are sufficient, the ECAR rate would remain at zero.
4. If the results of AEPCO's financial analysis indicate that additional revenues are needed for environmental compliance, the Cooperative will prepare and file with Docket Control its initial Environmental Compliance Strategy ("ECS"), which, at a minimum, will include a scope of work, anticipated timelines and cost estimates. Prior to filing an initial ECS, AEPCO must obtain authorization from its Board of Directors as well as unanimous consent from its Class A Distribution Cooperative Members ("AEPCO's Members"). The compliance costs identified for recovery in the initial ECS cannot be recovered through the ECAR without affirmative approval by the Arizona Corporation Commission. If approved, the ECAR rate will be charged to AEPCO's Members, who, in turn, may pass those charges through to their retail members via their respective purchased power clauses.
5. AEPCO's ECAR Plan of Administration ("POA") identifies (by RUS account number) the categories of costs that would be eligible for recovery through the ECAR. AEPCO's proposal includes capital costs necessary to achieve compliance with environmental regulation. AEPCO is also requesting inclusion of certain chemical costs as eligible for recovery through the ECAR. Specifically, the POA identifies as eligible for recovery

- RUS Account 502 Steam Expenses “limited to chemical expenses incurred solely due to Environmental Regulation(s) but not including any indirect expenses such as overhead.”
6. The Commission’s Utilities Division Staff (“Staff”) supports approval of the ECAR and use of the mechanism for recovery of necessary capital expenses, as specified by the RUS accounts included in the proposed POA. However, Staff opposes AEPCO’s proposal to the extent that it includes chemical costs as eligible for recovery through the ECAR (RUS Account 502-Steam Expenses).
 7. The RUS Account 502 chemical costs identified in AEPCO’s POA will be necessary for compliance with both the EPA’s regional haze and MATS regulations. Specifically, AEPCO’s compliance plan for the EPA’s regional haze regulation requires the use of urea. Likewise, AEPCO will need to purchase and utilize activated carbon in order to comply with MATS.
 8. The price of both urea and activated carbon are subject to market forces, making them variable and potentially volatile. Historically, the price of urea has been highly volatile, as shown on Exhibit 1 to AEPCO’s Response to Staff Report re ECAR Plan of Administration and Tariff, dated November 13, 2014 (“AEPCO’s Response”). Also, Exhibit 2 to AEPCO’s Response indicates that the demand for activated carbon is anticipated to increase significantly in the future, which will result in upward pressure on prices.
 9. Another chemical that AEPCO has and will continue to purchase and use in connection with its mercury-related environmental compliance obligations (imposed by the State of Arizona) is calcium bromide. The cost of calcium bromide is included in RUS Account 501 because the chemical is applied before the fuel enters the hopper. Because this chemical is recorded as an RUS Account 501 expense (as opposed to a 502 expense), it qualifies for inclusion in AEPCO’s PPFAC.
 10. AEPCO’s current estimates for the combined RUS Account 502 chemical costs required to comply with the EPA’s regional haze and MATS regulations over the next three years range from a low of \$2.2 million to a high of \$6.2 million annually: \$2.2 million to \$4.5 million in 2016; \$3.1 million to \$6.2 million in 2017; and \$2.2 million to \$5 million in 2018. AEPCO’s current estimated revenue requirements associated with the Cooperative’s capital investment for compliance with the EPA’s regional haze and MATS regulations over the next three years are as follows: \$0.41 million in 2016; \$1.90 million in 2017; and \$3.40 million in 2018.
 11. AEPCO asserts that the impact of these costs on the retail customer is difficult to determine because AEPCO’s Members have different retail rate levels and structures. Based on its preliminary analysis and communications with and input from the Members, AEPCO estimates the average monthly residential bill impact (based on Member 2013 Form 7 data) related to the chemical compliance costs could range as follows: \$0.61 to \$2.10 in 2016; \$0.84 to \$2.91 in 2017; and \$0.59 to \$2.34 in 2018. Using the same methodology, AEPCO estimates the average monthly residential bill impact related to capital costs could range as follows: \$0.11 to \$0.19 in 2016; \$0.53 to \$0.90 in 2017; and \$0.94 to \$1.61 in 2018. According to AEPCO, these increases are not cumulative and would only be implemented through the ECAR if AEPCO includes the chemical and

capital cost components in its ECS and if that ECS receives approval from AEPCO's Board, its Members and the Commission. AEPCO further asserts that, otherwise, the ECAR associated with any particular ECS may continue at the initially set level of zero. Staff neither agrees nor disagrees with the foregoing assertions or bill impact estimates provided by AEPCO; Staff has no evidence to the contrary and, therefore, is not disputing the Cooperative's assertions or estimates.